

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TALLY GREEN,

Plaintiff,

vs.

Case No.
Hon.

THE UNITED STATES and
KELLY MARIE RYAN,

Defendants.

The Sam Bernstein Law Firm
Attorneys for Plaintiff
By: Alexander L. Waldman (P80946)
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COMPLAINT

There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this Complaint, nor has any such action been previously filed and dismissed or transferred after having been assigned to a Judge, nor do I know of any other civil action not between these parties, arising out of the same transaction or occurrence as alleged in this Complaint.

NOW COMES the Plaintiff, TALLY GREEN, by and through her attorneys, The Sam Bernstein Law Firm, by Alexander L. Waldman, and for her causes of action against the Defendants, THE UNITED STATE and KELLY MARIE RYAN, and respectfully shows unto this Honorable Court as follows:

JURISDICTIONAL AVERMENTS

1. That the Plaintiff, TALLY GREEN, is a resident of the City of White Cloud,

County of Newaygo, State of Michigan.

2. That the Defendant, KELLY MARIE RYAN, is a resident of City of Newaygo, County of Newaygo, State of Michigan.

3. That at all times relevant Defendant, KELLY MARIE RYAN was in the course and scope of her employment with the United States Post Office. The United States Post Office is a subdivision of the Defendant THE UNITED STATES.

4. That Plaintiff's claims against Defendants KELLY MARIE RYAN and THE UNITED STATES arise under the Federal Tort Claims Act and the exclusive jurisdiction of this Court.

5. That a Form 95 has been filed with the United States Post office and no resolution has been made within six months of its filing.

6. That all the acts, transactions and occurrences arose in the County of Newaygo, State of Michigan.

7. That both venue and jurisdiction are properly brought before this court.

8. That the amount in controversy in this litigation exceeds the sum of Seventy-Five Thousand (\$75,000.00) Dollars exclusive of costs, interest, and attorney fees.

**COUNT I – THIRD PARTY AUTO NEGLIGENCE, OWNERS LIABILITY,
EMPLOYER'S LIABILITY/RESPONDEAT SUPERIOR, LIABILITY
UNDER THE FEDERAL TORT CLAIMS ACT**

9. That Plaintiff, TALLY GREEN, hereby adopts and incorporates by reference each and every allegation contained in paragraphs 1-8 of this Complaint as if more specifically set forth herein, word for word and paragraph by paragraph.

10. That on April 27, 2020, your Plaintiff, TALLY GREEN, was the driver of a Ford Escape motor vehicle bearing the Michigan license plate number CWL559, which motor vehicle

was being operated in careful and prudent manner, in a easterly direction along and upon Baseline Road, at or near its intersection with Poplar Avenue, in the County of Newaygo, State of Michigan.

11. That at the aforementioned place and time, the Defendant, KELLY MARIE RYAN, in the course and scope of his duties as a United States Post Office employee, was the operator of a 2007 Dodge Caravan motor vehicle, license plate number ECS6557, which motor vehicle said Defendant, KELLY MARIE RYAN, was driving in a careless, reckless and negligent manner in a easterly direction along and upon Baseline Road, at or near its intersection with Poplar Avenue, in the County of Newaygo, when said Defendant's vehicle did fail to yield the right of way and made an improper turn and did then collide with the motor vehicle being operated by your Plaintiff, TALLY GREEN, causing her serious and permanent injuries as hereinafter alleged.

12. That it then and there became and was the duty of the Defendants, KELLY MARIE RYAN and THE UNITED STATES, to drive said motor vehicle with due care and caution in accordance with the statutes of the State of Michigan and the rules of the common law applicable to the operation of motor vehicles, but that not with-standing said duties, your Defendants, KELLY MARIE RYAN and THE UNITED STATES, did breach and violate the same in one or more of the following particulars.

- (a) Driving said motor vehicle on the highway at a speed greater than would permit him to bring it to a stop within the assured clear distance ahead, contrary to the provisions of MSA 9.2327;
- (b) Driving at an excessive and unlawful speed;
- (c) Failing to drive said motor vehicle on the highway at a careful and prudent speed, not greater than was reasonable and proper, having due regard to the traffic, surface and width of the highway and other conditions then and there existing as required by MSA

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9.2327;

- (d) Failing to keep proper or any lookout for traffic when Defendant knew or should have known that such failure would endanger the life and limb of other persons along and upon said highway;
- (e) Failing to obey a traffic signal with a red, yellow, green traffic control signal and to comply with said signal and yield the right of way to Plaintiff's vehicle which had the right of way.
- (f) In otherwise negligently failing to exert that degree of care, caution, diligence and prudence as would be demonstrated by a reasonably prudent person under the same or similar circumstances and in otherwise causing the injuries and damages to your Plaintiff as hereinafter alleged;
- (g) Failing to give audible warning of the approach or presence of said motor vehicle when reasonably necessary to insure its safe operation as required by MSA 9.2406;
- (h) In other manners as yet unknown to Plaintiff but which will become known during the course of discovery.

13. That Defendants, KELLY MARIE RYAN, is vicariously liable for the negligent acts and/or omissions of the Defendant, THE UNITED STATES and their, employee acting in the scope of his employment as stated herein and by virtue of the terms of the Michigan Owner's Liability Statute.

14. That as a direct and proximate result of the negligent acts and/or omissions on the part of the Defendants, KELLY MARIE RYAN and THE UNITED STATES, your Plaintiff, TALLY GREEN, was caused and will be caused in the future to suffer with severe, grievous and permanent personal injuries, disability, damages, serious impairments of important body functions and permanent, serious disfigurements, the full extent and character of which are currently unknown but, which will include but, are not necessarily limited to the following:

- (a) Injuries to and about her head, neck, shoulders, chest, and back;
- (b) Injuries to and about her lower extremities, including, but not

limited to knees and ankles;

- (c) Injuries to and about her hips;
- (d) Residual scarring;;
- (e) Aggravation and/or exacerbation of any pre-accident injuries/conditions;
- (f) Any and all other manners of internal and external injuries;
- (g) As yet undiscovered sequelae of the aforementioned physical injuries.

15. That as a direct and proximate cause of the negligent conduct of Defendants KELLY MARIE RYAN and THE UNITED STATES, your Plaintiff, TALLY GREEN, has suffered damages including but not limited to the following elements:

- (a) Fright, shock, pain, suffering, discomfort, disability, and extreme physical and emotional suffering;
- (b) Severe and continuing embarrassment, humiliation, anxiety, tension and mortification;
- (c) Loss of the natural enjoyments of life; and
- (d) Lost earnings in excess of the amounts and time periods covered under the Michigan's No-Fault Statutes;
- (e) Any other elements of damage which may become known during the course of this litigation and allowable under Michigan law.

16. That as a direct and proximate result of the negligence, and or gross negligence and unlawful conduct of Defendants KELLY MARIE RYAN and THE UNITED STATES, your Plaintiff, TALLY GREEN, has been required to undergo various and certain medical and operative procedures and will be required to undergo like treatment in the future.

17. That as a direct and proximate result of the negligence, and/or gross negligence and unlawful conduct of Defendants KELLY MARIE RYAN and THE UNITED STATES, your

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Plaintiff, TALLY GREEN, has been required to undergo various and certain medical and operative procedures and will be required to undergo like treatment in the future.

18. That the Defendant, THE UNITED STATES, is liable for the negligent acts of Defendant KELLY MARIE RYAN and its possession and control of the motor vehicle she was operating in the at issue motor vehicle collision pursuant to the Federal Tort Claims Act.

19. That all administrative remedies have been exhausted.

WHEREFORE, Plaintiff, TALLY GREEN, prays that this Honorable Court award her damages against the Defendants, THE UNITED STATES and KELLY MARIE RYAN, in whatever amount to which she is found to be entitled to receive, together with costs, interest, and attorney fees.

THE SAM BERNSTEIN LAW FIRM PLLC

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Dated: July 8, 2022,

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JURY DEMAND

NOW COMES the Plaintiff, TALLY GREEN, by and through her attorneys, THE SAM BERNSTEIN LAW FIRM, PLLC, by Alexander L. Waldman, and hereby respectfully requests a trial by jury in the above-entitled cause of action.

THE SAM BERNSTEIN LAW FIRM PLLC

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Dated: July 8, 2022,